

## Preliminary Assessment Summary

### **PRAKAS Registration of Name of Enterprise, Name of Association and Its Protection**

#### **Ministry of Commerce**

Reference no: 0000013 (system no xx)  
Date started: 10 Dec 2012  
Date finished: 27 January 2013

The Prakas requires a request to be made to the Department of Intellectual Property Rights (D/IPR) to check the proposed trade name for all new commercial enterprise (business), association and organization registrations against currently pending and registered marks. This must be done before submitting an application for registration at the Department of Business Registration or other competent authority. The name check is a preventive procedure to avoid disputes over infringement of intellectual property (IP) rights and supports Cambodia's commitments under the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

The PA also examines an alternative option of providing an online database for the public to self-check the availability of company names before submitting an application for registration. Further options of encouraging private name searches of publicly available data and encouraging applicants to avoid imitation or adaptation of existing and well-known marks/company names have been assessed to be infeasible.

The Prakas proposal involves small additional costs for the private sector to complete the required application form. In exchange, they gain greater certainty that they will not be forced to change their name because an infringement is identified after they have begun operating and made substantial investments. The alternative of self-checking an online public database could potentially be quicker than the government checking procedure proposed by the Prakas, or more time consuming, depending on the skills of the individual. However, the online database would involve substantial development costs and the benefit is considered to be smaller than for the Prakas, due to less reliability of results and no official confirmation of the acceptability of the selected name. Therefore, the Prakas has been assessed to deliver the greatest net benefit. Nevertheless, the Prakas should be reviewed when there is greater ability to make use of the online public database option.